

Assessing public policy and neutrality of the state civil apparatus in Indonesian elections

Elpisina Elpisina¹, Pauzi Muhammad²

Islamic University of Sulthan Thaha Saifuddin Jambi, Jambi, Indonesia^{1&2}

abangadek20022@gmail.com¹, fauzimuhammad@uinjambi.ac.id²



Article History

Received on 19 November 2024

Revision 1st on 2 December 2024

Revision 2nd on 27 December 2024

Revision 3th on 5 February 2025

Accepted on 7 February 2025

Abstract

Purpose: State civil servants have the right to vote in elections, but they are required to be neutral and professional in carrying out their duties and repetition, namely implementing public policies and providing public services to the community without being involved in practical political processes on the election agenda.

Research/methodology: : The method used was a normative legal research method. This research method is carried out in several ways, namely, conducting studies, describing, interpreting, systematizing, and assessing and analyzing positive law.

Results: The results of this research are regulations regarding the neutrality of the State Civil Apparatus as regulated by Law Number 7 of 2017 concerning General Elections, PP No. 42/2004 concerning the Development of Corps Spirit and the Code of Ethics for Civil Servants, PP No. 42/2004 concerning the Development of Corps Spirit and the Code of Ethics for Civil Servants, PP No. 53/2010 concerning Civil Servant Discipline, Law No. 5/2014 concerning State Civil Apparatus, and a circular letter from the Minister of State Apparatus Empowerment and Bureaucratic Reform No. 1 of 2023 concerning the Guidance and Supervision of Neutrality of Non-Civil Servants in the Implementation of General Elections and Elections.

Conclusions: This study increases knowledge about the neutrality of state civil apparatuses in general elections based on Laws and Government Regulations. This study also provides information for policymakers to understand the neutrality of the State Civil Service in General Elections, so that democracy in Indonesia will improve.

Limitations: This study only covers the neutrality of State Civil Apparatus in General Elections; Therefore, expanding the research to the Indonesian National Army and the Republic of Indonesia Police could produce comprehensive findings.

Contribution: This study provides legal insights and policy recommendations to strengthen the neutrality of civil servants and support fair and democratic elections in Indonesia.

Keywords: : *Civil Apparatus, Indonesian Elections, Neutrality, State Public Policy*

How to Cite: Elpisina, E., & Muhammad, P. (2025). Assessing public policy and neutrality of the state civil apparatus in Indonesian elections. *Journal of Social, Humanity, and Education*, 5(4), 289-296.

1. Introduction

Ideally, elections are held to create a representative government. Democratic elections can be identified by examining the level of competition between the parties and general elections. On the other hand, if the party in the election loses its competitive characteristics, it becomes a pseudo-political ritual, a manipulation to seek legitimacy alone (Rahardjo, 1996). If political policies are to be implemented properly, they policies carried out must always lead to thinking about how democracy is correct, honest, fair, and so on. However, what happens in Indonesia are actually two phenomena. First, it is irrational because many political discourses, when achieving certain goals, justify all the means. Second, politics in Indonesia are already related to the use of power; among other things, when there is mobilization to

achieve goals, then what is used is power. The point is that when power is in hand, it forgets the characteristics of pluralistic Indonesian society. Pluralism here means that tolerance is needed; it is impossible for politics in Indonesia to be made uniform, it cannot be made a kind of unity, and it cannot be made to win on its own (Sutrisno, 2000).

Article 1 number 1 of Law Number 7 of 2017 concerning General Elections, states that General Elections, hereinafter referred to as elections, are a means of people's sovereignty to elect members of the House of Representatives, members of the Regional Representative Council, the President and Vice President, and elect members of the Regional Representative Council, which is carried out directly, publicly, freely, secretly, honestly, and fairly in the Unitary State of the Republic of Indonesia based on Pancasila and the State Constitution Republic of Indonesia in 1945 (Nurhasim, 2014). Article 3 states that in the implementation of elections, elections must be carried out based on the principles referred to in Article 2, and the implementation must meet the principles of independence, honest, fair, legal certainty, orderly, open, proportional, professional, accountable, effective, and efficient. Then in Article 4 it is stated that, the regulation of the implementation of elections aims to: 1) strengthen the democratic constitutional system, 2) realize fair and integrity elections, 3) ensure the consistency of the regulation of the electoral system, 4) provide legal certainty and prevent duplication in realizing effective and efficient elections (Sanjaya, Yulianti, & Habibi, 2020).

From some of these provisions, it can be understood that elections are carried out under the principles of direct, public, free, confidential, honest, and fair. The current presidential and vice presidential elections are elected directly by the people, not by the MPR. Based on this principle, the neutrality of the state civil apparatus in the general election of the president and vice president is important for maintenance and implementation, and civil servants are not allowed to openly support one of the pairs of presidential and vice presidential candidates. The right to vote can only be given at the time of voting at the Polling Station (TPS): directly, publicly, freely, and secretly. The State Civil Apparatus (ASN) must be neutral in their attitude and behavior related to the election of the president and vice president. Whoever wins must be supported, and the loser must have a big heart to accept his defeat and participate in supporting the victorious party for the sake of the progress of the nation and state in the future (Dionysopoulou, 2020).

The issue of ASN non-neutrality in elections is an important thing to pay attention to. Although civil servants have the right to vote in elections, they are required to be neutral and professional in carrying out their duties and roles, namely, implementing public policies and providing public services to the community without being involved in the practical political process on the election agenda. If the ASN is not neutral in the political process, there will certainly be negative sides, such as abuse of authority to support prospective election participants. On the other hand, the attitude of the ASN, which is not neutral in elections, certainly hinders performance and can harm the community as recipients of public services. Due to the non-neutrality of the State Civil Apparatus (ASN) in the general election, many of the ASN actually supported one of the candidates by participating in the campaign, becoming a successful team, distributing brochures, *baleho*, and so on. In addition, there are also those who are successful teams, who directly support one of the candidates for President and Vice President, which has actually violated the provisions mandated in Law Number 7 of the Year concerning General Elections (Bora, Fanggidae, & Fanggidae, 2023).

2. Literature review

Research on the neutrality of the State Civil Apparatus (ASN) in Indonesian elections has grown significantly, particularly following the enactment of Law No. 5 of 2014 concerning ASN. Sarnawa and Khaer (2024) explain that although the legal framework surrounding neutrality has evolved from the New Order era to the present, its practical implementation remains challenged by bureaucratic culture and local political patronage. Amir and Hertanto (2023) report that during the 2024 general election, numerous violations of ASN neutrality were recorded by the Election Supervisory Agency (Bawaslu), indicating that existing regulations have not yet effectively curbed political bias within the civil service.

Salim and Susilowati (2023) emphasize the importance of the Joint Decree (SKB) among state institutions as a framework to strengthen ASN neutrality monitoring. However, they argue that without synchronized enforcement mechanisms across agencies, the policy tends to be symbolic rather than functional. Furthermore, institutional weaknesses persist in the enforcement of disciplinary measures, as the position responsible for sanctioning ASN violations—the staffing officer—is often held by regional heads with political affiliations, leading to potential conflicts of interest (Atlantis Press, 2025).

With the increasing complexity of electoral politics, scholars have proposed technological innovations to enhance monitoring. Rasiana et al. (2024) note that 22 provinces were identified as high-risk areas for ASN neutrality violations ahead of the 2024 elections. They recommend expanding digital surveillance collaboration between the ASN Commission (KASN) and the Directorate General of Informatics Applications (Aptika) to detect violations more efficiently. Supporting this perspective, Tumanggor and Nurdin (2024) argue that the implementation of a merit-based system and the cultivation of ethical leadership are key to preserving long-term ASN neutrality, not only during elections but throughout public administration cycles.

3. Research Methodology

Normative juridical law research method was used. This research method is carried out in several ways, such as conducting studies, describing, interpreting, systematically assessing, and analyzing positive laws (Nasution, 2016). Normative legal research is legal research conducted by conducting research on secondary data or literature studies, by analyzing all legal issues through laws and regulations, literature, legal materials, or other references.

4. Results and discussion

4.1 Public Policy on ASN Neutrality in General Elections

Civil Servants (PNS) are Indonesian citizens who meet certain requirements and are appointed as employees of the State Civil Apparatus (ASN) on a permanent basis by personnel supervisory officials to occupy government positions. Based on Article 2 letter F, Law No. 5 of 2014 concerning the State Civil Apparatus, every ASN Employee must not take sides from any influence and does not take sides with anyone's interests. The article clearly states that civil servants must be neutral in the context of political activities. Civil servants, as elements of the state apparatus, are naturally influenced by all groups and political parties, are not discriminatory in providing services to the community, and are prohibited from being members and/or administrators of political parties (Soje & Tanko, 2024).

Article 9 paragraph (2) of Law Number 5 of 2014, concerning the State Civil Apparatus, explains that ASN employees must be free. The Human Resources of the Ministry of State Apparatus Empowerment and Bureaucratic Reform (HR MENPANRB) explained that neutralization is a state and attitude of impartiality or freedom. The neutrality of civil servants and freedom from political intervention are highly emphasized as an important part of providing public services and have become the glue element of the unity of the Republic of Indonesia. According to the Minister of Civil Apparatus Empowerment and Bureaucratic Reform (PANRB), civil servants are prohibited from committing acts that lead to the partiality of one of the candidates or acts that identify being involved in practical politics or affiliated with political parties. The neutrality of civil servants supports the implementation of good governance. Civil servants in their functions play the role of the state apparatus in charge of providing services to the community. In addition, the neutrality of civil servants is one way to realize the principle of democracy and the rule of law as stipulated in the Constitution (Rahmansyah & Irwandi, 2021).

In relation to the approaching stages of the general election, in accordance with Article 283 of Law Number 7 of 2017, all state officials, structural officials, functional officials in state offices, and other State Civil Apparatuses (ASN) are prohibited from holding activities that lead to partiality towards election participants, during and after the campaign period. The prohibition in question includes invitations, appeals, or the giving of goods to the State Civil Apparatus within their work units, members of their departments, and the community (Nurullah et al., 2024).

Violations of the code of ethics or neutrality of ASN are processed at the district/city Bawaslu in accordance with the provisions of the law, then the legal products caused are forwarded to agencies or authorities, one of which is the State Civil Apparatus Commission (KASN), even if proven to have committed an election criminal violation, it will be subject to election criminal sanctions in accordance with article 494 of Law Number 7 of 2017 concerning general elections. Article 494 reads: Every State Civil Apparatus, members of the Indonesian National Army and the National Police of the Republic of Indonesia, village heads, village officials, and/or members of the village consultative body who violate the prohibition as referred to in Article 280, paragraph (3) shall be sentenced to imprisonment for a maximum of 1 (one) year and a maximum fine of Rp12,000,000.00 (12 million rupiah) (Eton, Sunday, & Nkamusiima, 2023).

The challenges faced by the Indonesian nation in the future require professionalism, foresight, the ability to establish partnerships with the private sector, high performance, responsibility, independence from KKN practices, independence from the political structure of the state government, and future-oriented national institutions for public services. To make an ASN like that, the ASN format needs to be adjusted to clearly separate the political positions of the three government departments from the positions of the ASN, who must be neutral and politically interfering. Indonesia's personnel management department needs to regulate the separation of two positions, namely, the separation between national (political) and professional positions from three government departments, and the prohibition of civil servants from serving as administrative staff and members of political parties (Kosasih & Sulaiman, 2024).

The enactment of Law Number 5 of 2014 involves the ASN and is a milestone in the Indonesian Bureaucratic Reform phase. The purpose of bureaucratic reform in Indonesia is to realize a professional civil servant, free from political interference, corruption, collusion, and nepotism (KKN), providing public services to the community in accordance with applicable provisions, Pancasila and the 1945 Constitution, fulfilling its role as a guardian of state unity. According to the National Manpower Law, it is precisely in the general provisions that the definition or meaning of the National Civil Equipment Committee implies that the ASN Committee (hereinafter referred to as KASN) is a non-structural organization that is independent and free from political interference, with the highest power of the president authorizing KASN to carry out its duties. As mentioned above, the background of KASN's birth is a reflection of its purpose. However, Article 28 of the ASN Law explains in more detail the objectives set by KASN, which are as follows: a. ensuring the realization of a merit system in ASN policies and management; b. realizing ASN that is professional, high-performance, prosperous, and functions as the glue of the Unitary State of the Republic of Indonesia; c. supporting the implementation of an effective, efficient, and open state government to eradicate corruption, collusion, and nepotism; e. ensuring the formation of an ASN profession that is respected by employees and the community; f. achieving a dynamic ASN and a culture of work achievement (Hartini, 2009).

In addition, Article 30 of the ASN Law stipulates that the function of KASN is to supervise the implementation of basic norms, ethics, and code of ethics of ASN, as well as the implementation of performance systems in ASN policies and government management mechanisms. After being ordered by law, the KASN can perform its duties. The priority agenda was formulated in the Medium-Term Development Plan. Meanwhile, the policy direction taken to support the implementation of Law No. 5 of 2014 concerning the State Civil Apparatus is the implementation of transparent, competitive, and merit-based ASN management to realize professional and dignified ASN. The policy direction is elaborated through the following strategies: a). the completion of laws and regulations as an implementation of Law No. 5 of 2014 concerning ASN; b). Improving the quality of planning for ASN needs (c). strengthening policies, and implementing the recruitment and selection system in a transparent and competency-based manner (d). strengthening policies and implementing an open promotion system, including the use of *assessment centers* (e). Strengthening policies and implementing employee performance management, including policy development and performance-based management (f). Development of a cadre system for high-ranking ASN officials (g). Strengthening supervision, monitoring, and evaluation of the implementation of ASN management in ministries/agencies/local governments, h). strengthening the system and the institution of merit system

protection in ASN management; and i). strengthening policies and implementing/internalizing principles, basic values, codes of ethics, and codes of conduct for the ASN (Kurnia, 2013).

The implementation of ASN neutrality in general elections expressly orders that every ASN obeys all provisions of laws related to neutrality, especially Law No. 5 of 2014 concerning ASN and Government Regulation No. 53 of 2010 on ASN Discipline. Regarding criminal sanctions for ASN in the implementation of general elections given if they violate Article 280, paragraph (3) of Law No. 7 of 2017 concerning General Elections, Article 494, according to this law, will be imposed in the form of imprisonment for a maximum of 1 (one) year and a maximum fine of Rp. 12,000,000.00 (12 million rupiahs), respectively. Civil Servants suspected of committing violations will be summoned by authorized officials to be examined. The calls were made verbally. However, if he is not present, the call is written. If a civil servant suspected of committing a violation does not comply with the first summons, a second summons will be made. If the two civil servants are not present at the summons, then it does not prevent authorized officials from imposing disciplinary punishment (Mulyono, 2015).

Neutrality of the State Civil Apparatus (ASN) as stated in Law Number 5 of 2014 concerning ASN article 2 letter F, states "The principle of implementing ASN policies and management is neutrality. This principle of neutrality means that every ASN employee does not take side from any form of influence and does not take side with anyone's interests. The following are the prohibited behaviors related to elections for ASN based on the ASN Neutrality Decree: 1). Social Media Campaigns/Socialization (Posts, *Shares*, Comments, *Likes* , etc.); 2). Attend the Declaration of Candidates; 3). Participate as a Committee/Executive; 4). Participate in the campaign with the attributes of civil servants; 5). Participate in campaigns using state facilities; 6). Attending political party events 7). Attend the submission of political party support to the candidate; 8). Holding activities that lead to partiality (invitations, appeals, appeals); and 9). Provide back support to independent candidates for regional heads by providing ID cards (Ramdani & Prayitno, 2023).

ASN neutrality is also regulated by Law Number 5 of the 2014 Article 9 paragraph (2), which states that ASN employees must be free from the influence and intervention of all groups and political parties. If it is found that there is a State Civil Apparatus that violates the law, Law Number 5 of the 2014 Article 87 paragraph (4) states that civil servants are dishonorably dismissed because they are members and/or administrators of political parties. In addition to the ASN Law, Government Regulation No. 53 of 2010 concerning Civil Servant Discipline, Article 4 numbers 12-15 also explains the prohibition against civil servants in providing support or carrying out activities that lead to practical politics in the contestation of regional elections and legislative elections (Olayemi, 2020).

In the implementation of the General Election, it is hoped that every ASN employee will be neutral. This is because ASN neutrality is an important pillar of continuity in the implementation of good governance (Watunglawar, 2017). Therefore, ASN employees are elements of a state apparatus that can provide services to the community in a professional, honest, fair, and equitable manner. The role of ASN employees is to realize a clean ASN in an effort to create *good governance*. So *good* in *good governance* contains 2 (two) meanings. First, values that uphold the will of the people, and values that can improve the ability of the people to achieve national goals, independence, sustainable development, and social justice. Second is the functional aspect and effective and efficient government in the implementation of its duties to achieve these goals (Somantri, 2010).

Being neutral ahead of the election democracy party, of course, is not shown solely to officials who plan to renominate or, in other words, *incumbents*. However, something that must be understood by an ASN must be able to place itself as a servant of the state in a professional and qualified public servant, not serving the interests of individuals, groups, or certain candidates. Civil servants who work in bureaucracy should be placed more as guardians of the player rules agreed upon through the democratic process. Therefore, bureaucracy should be neutral, clean, and professional. Violations of ASN neutrality in the election stages in Indonesia have occurred for a long time, especially in simultaneous elections; news about the involvement of ASN, for example, in the process before and after the campaign period. On the other hand, they understand that there are strict regulations that require the ASN to be neutral

and not to side with one of the pairs of candidates for the Regional Elections. If they (ASN) violate these regulations, they will be subject to sanctions according to the type of violation they (ASN) commit. In Government Regulation Number 42 of 2004 concerning Corps Development and Code of Ethics 52 ASN article 11 letter c, which reads: In terms of ethics towards oneself, ASN must avoid conflicts of interest of individuals, groups, or factions, then ASN is prohibited from committing acts that lead to the partiality of one of the candidates or acts that indicate involvement in practical politics or affiliation with political parties (Apriyadi, 2016).

Government Regulation No. 42 of 2004 on Corps Spirit Development and Civil Servant Code of Ethics Article 11 letter C explains that ethics towards oneself is one of avoiding conflicts of interest among individuals, groups, or groups. Civil servants are prohibited from committing acts that indicate involvement in practical politics or affiliations with political parties.

Special arrangements regarding neutrality for Non-Civil Servant Government Employees (PPNPN), which were ratified on January 3, 2023, are the circular letter of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 1 of 2023 concerning the Fostering and Supervision of Neutrality of Non-Civil Servants in the Implementation of General Elections and Elections. "Everyone who enjoys a salary from the state budget is subject to the obligation to uphold the principle of neutrality, not only for civil servants but also for Non-Civil Servant Government Employees (PPNPN), it needs to be emphasized that this includes Government Employees with Employment Agreements (PPPK). The policy of political neutrality of ASN is based on its historical experience, especially during the New Order period, when ASN has been used by political rulers by mobilizing to support the winner of the ruling political organization in general elections. As the spearhead in the implementation of elections, the State Civil Apparatus must have independence, honesty, justice, legal certainty, order, public interest, openness, proportionality, professionalism, accountability, efficiency, and effectiveness.

4.2 Supporting and Inhibiting Factors for ASN Neutrality in General Elections

To determine whether the neutrality of an ASN in an election can be determined from two factors, namely supporting factors and inhibiting factors. The supporting factors are as follows: First, there is socialization regarding the neutrality of the State Civil Apparatus carried out by the Election Supervisory Agency. Second, clear regulations regarding the neutrality of ASN, as stipulated in Law No. 7 of 2017 concerning General Elections, Government Regulation No. 42/2004 concerning Civil Servant Discipline, Law No. 5/2010 concerning State Discipline, and the circular letter of the Minister of State Civil Apparatus Empowerment and Bureaucratic Reform Number 1 of 2023 concerning the Fostering and Supervision of Neutrality of Non-Civil Servants in the implementation of general elections and elections. Thus, it is clear from the regulation that the ASN must be neutral in political activities, including general elections. The third supporting factor was community control. The public has the right to report violations of neutrality committed by the ASN to the General Election Supervisory Agency (Bawaslu). In addition to the supporting factors, there are also inhibiting factors regarding the neutrality of the State Civil Apparatus in the election. First, an ASN mindset has not yet been established. The mindset of the ASN still has a culture of motives for obtaining and securing positions. Second, there is a kinship relationship between the ASN and election participants. Third, there are still weak sanctions imposed by ASN individuals who are proven guilty. Fourth, ignorance or lack of information on ASN that their attitudes and actions can be categorized as a violation of neutrality. Fifth, there is intimidation or pressure on the ASN to support certain candidates (Khan & Hossain, 2021).

5. Conclusion

Regulations regarding the neutrality of the State Civil Apparatus as stipulated in Law No. 7 of 2017 concerning General Elections, Government Regulation No. 42/2004 concerning the Development of Corps Spirit and the Code of Ethics of Civil Servants, Government Regulation No. 42/2004 concerning the Development of Corps Spirit and the Code of Ethics of Civil Servants, Government Regulation No. 53/2010 concerning Civil Servant Discipline, Law No. 5/2014 concerning the State Civil Apparatus, and the circular letter of the Minister of State Apparatus Empowerment and Bureaucratic Reform No.

1 of 2023 concerning the Fostering and Supervision of Neutrality of Non-Civil Servants in the Implementation of General Elections and Voters.

To determine whether ASN neutrality in the election can be determined from two factors: supporting factors and inhibiting factors. The supporting factors are as follows: First, there is socialization regarding the neutrality of the State Civil Apparatus carried out by the Election Supervisory Agency. Second, there are clear regulations regarding the neutrality of the State Civil Apparatus. Third, there was community control. Furthermore, there is an inhibiting factor regarding the Neutrality of the State Civil Apparatus in the election. First, an ASN mindset has not yet been established. The mindset of the ASN still has a culture of motives for obtaining and securing positions. Second, there is a kinship relationship between the ASN and election participants. Third, there are still weak sanctions imposed by ASN individuals who are proven guilty. Fourth, ignorance or lack of information on ASN that their attitudes and actions can be categorized as a violation of neutrality. Fifth, intimidation or pressure exists on the ASN to support certain candidates.

Acknowledgments

The researcher expresses his appreciation and gratitude to all parties who contributed both directly and indirectly to the preparation and completion of this journal. As a result, this journal was successfully completed in accordance with the objectives, themes, subthemes, and time period that had been determined by the committee. The researcher apologizes for all the limitations in the preparation of this journal. It is hoped that future research can further improve this.

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